

HB3172



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3172

by Rep. Jil Tracy

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-615

Amends the Juvenile Court Act of 1987. Deletes provision that the State's Attorney may object in open court to an order of continuance under supervision.

LRB098 08458 RLC 38565 b

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-615 as follows:

6 (705 ILCS 405/5-615)

7 Sec. 5-615. Continuance under supervision.

8 (1) The court may enter an order of continuance under
9 supervision for an offense other than first degree murder, a
10 Class X felony or a forcible felony (a) upon an admission or
11 stipulation by the appropriate respondent or minor respondent
12 of the facts supporting the petition and before proceeding to
13 adjudication, or after hearing the evidence at the trial, and
14 (b) in the absence of objection made in open court by the
15 minor, his or her parent, guardian, or legal custodian or the
16 minor's attorney ~~or the State's Attorney~~.

17 (2) If the minor, his or her parent, guardian, or legal
18 custodian or the minor's attorney ~~or State's Attorney~~ objects
19 in open court to any continuance and insists upon proceeding to
20 findings and adjudication, the court shall so proceed.

21 (3) Nothing in this Section limits the power of the court
22 to order a continuance of the hearing for the production of
23 additional evidence or for any other proper reason.

1 (4) When a hearing where a minor is alleged to be a
2 delinquent is continued pursuant to this Section, the period of
3 continuance under supervision may not exceed 24 months. The
4 court may terminate a continuance under supervision at any time
5 if warranted by the conduct of the minor and the ends of
6 justice.

7 (5) When a hearing where a minor is alleged to be
8 delinquent is continued pursuant to this Section, the court
9 may, as conditions of the continuance under supervision,
10 require the minor to do any of the following:

11 (a) not violate any criminal statute of any
12 jurisdiction;

13 (b) make a report to and appear in person before any
14 person or agency as directed by the court;

15 (c) work or pursue a course of study or vocational
16 training;

17 (d) undergo medical or psychotherapeutic treatment
18 rendered by a therapist licensed under the provisions of
19 the Medical Practice Act of 1987, the Clinical Psychologist
20 Licensing Act, or the Clinical Social Work and Social Work
21 Practice Act, or an entity licensed by the Department of
22 Human Services as a successor to the Department of
23 Alcoholism and Substance Abuse, for the provision of drug
24 addiction and alcoholism treatment;

25 (e) attend or reside in a facility established for the
26 instruction or residence of persons on probation;

- 1 (f) support his or her dependents, if any;
- 2 (g) pay costs;
- 3 (h) refrain from possessing a firearm or other
4 dangerous weapon, or an automobile;
- 5 (i) permit the probation officer to visit him or her at
6 his or her home or elsewhere;
- 7 (j) reside with his or her parents or in a foster home;
- 8 (k) attend school;
- 9 (k-5) with the consent of the superintendent of the
10 facility, attend an educational program at a facility other
11 than the school in which the offense was committed if he or
12 she committed a crime of violence as defined in Section 2
13 of the Crime Victims Compensation Act in a school, on the
14 real property comprising a school, or within 1,000 feet of
15 the real property comprising a school;
- 16 (l) attend a non-residential program for youth;
- 17 (m) contribute to his or her own support at home or in
18 a foster home;
- 19 (n) perform some reasonable public or community
20 service;
- 21 (o) make restitution to the victim, in the same manner
22 and under the same conditions as provided in subsection (4)
23 of Section 5-710, except that the "sentencing hearing"
24 referred to in that Section shall be the adjudicatory
25 hearing for purposes of this Section;
- 26 (p) comply with curfew requirements as designated by

1 the court;

2 (q) refrain from entering into a designated geographic
3 area except upon terms as the court finds appropriate. The
4 terms may include consideration of the purpose of the
5 entry, the time of day, other persons accompanying the
6 minor, and advance approval by a probation officer;

7 (r) refrain from having any contact, directly or
8 indirectly, with certain specified persons or particular
9 types of persons, including but not limited to members of
10 street gangs and drug users or dealers;

11 (r-5) undergo a medical or other procedure to have a
12 tattoo symbolizing allegiance to a street gang removed from
13 his or her body;

14 (s) refrain from having in his or her body the presence
15 of any illicit drug prohibited by the Cannabis Control Act,
16 the Illinois Controlled Substances Act, or the
17 Methamphetamine Control and Community Protection Act,
18 unless prescribed by a physician, and submit samples of his
19 or her blood or urine or both for tests to determine the
20 presence of any illicit drug; or

21 (t) comply with any other conditions as may be ordered
22 by the court.

23 (6) A minor whose case is continued under supervision under
24 subsection (5) shall be given a certificate setting forth the
25 conditions imposed by the court. Those conditions may be
26 reduced, enlarged, or modified by the court on motion of the

1 probation officer or on its own motion, or that of the State's
2 Attorney, or, at the request of the minor after notice and
3 hearing.

4 (7) If a petition is filed charging a violation of a
5 condition of the continuance under supervision, the court shall
6 conduct a hearing. If the court finds that a condition of
7 supervision has not been fulfilled, the court may proceed to
8 findings and adjudication and disposition. The filing of a
9 petition for violation of a condition of the continuance under
10 supervision shall toll the period of continuance under
11 supervision until the final determination of the charge, and
12 the term of the continuance under supervision shall not run
13 until the hearing and disposition of the petition for
14 violation; provided where the petition alleges conduct that
15 does not constitute a criminal offense, the hearing must be
16 held within 30 days of the filing of the petition unless a
17 delay shall continue the tolling of the period of continuance
18 under supervision for the period of the delay.

19 (8) When a hearing in which a minor is alleged to be a
20 delinquent for reasons that include a violation of Section
21 21-1.3 of the Criminal Code of 1961 or the Criminal Code of
22 2012 is continued under this Section, the court shall, as a
23 condition of the continuance under supervision, require the
24 minor to perform community service for not less than 30 and not
25 more than 120 hours, if community service is available in the
26 jurisdiction. The community service shall include, but need not

1 be limited to, the cleanup and repair of the damage that was
2 caused by the alleged violation or similar damage to property
3 located in the municipality or county in which the alleged
4 violation occurred. The condition may be in addition to any
5 other condition.

6 (8.5) When a hearing in which a minor is alleged to be a
7 delinquent for reasons that include a violation of Section 3.02
8 or Section 3.03 of the Humane Care for Animals Act or paragraph
9 (d) of subsection (1) of Section 21-1 of the Criminal Code of
10 1961 or paragraph (4) of subsection (a) of Section 21-1 or the
11 Criminal Code of 2012 is continued under this Section, the
12 court shall, as a condition of the continuance under
13 supervision, require the minor to undergo medical or
14 psychiatric treatment rendered by a psychiatrist or
15 psychological treatment rendered by a clinical psychologist.
16 The condition may be in addition to any other condition.

17 (9) When a hearing in which a minor is alleged to be a
18 delinquent is continued under this Section, the court, before
19 continuing the case, shall make a finding whether the offense
20 alleged to have been committed either: (i) was related to or in
21 furtherance of the activities of an organized gang or was
22 motivated by the minor's membership in or allegiance to an
23 organized gang, or (ii) is a violation of paragraph (13) of
24 subsection (a) of Section 12-2 or paragraph (2) of subsection
25 (c) of Section 12-2 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, a violation of any Section of Article 24

1 of the Criminal Code of 1961 or the Criminal Code of 2012, or a
2 violation of any statute that involved the unlawful use of a
3 firearm. If the court determines the question in the
4 affirmative the court shall, as a condition of the continuance
5 under supervision and as part of or in addition to any other
6 condition of the supervision, require the minor to perform
7 community service for not less than 30 hours, provided that
8 community service is available in the jurisdiction and is
9 funded and approved by the county board of the county where the
10 offense was committed. The community service shall include, but
11 need not be limited to, the cleanup and repair of any damage
12 caused by an alleged violation of Section 21-1.3 of the
13 Criminal Code of 1961 or the Criminal Code of 2012 and similar
14 damage to property located in the municipality or county in
15 which the alleged violation occurred. When possible and
16 reasonable, the community service shall be performed in the
17 minor's neighborhood. For the purposes of this Section,
18 "organized gang" has the meaning ascribed to it in Section 10
19 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

20 (10) The court shall impose upon a minor placed on
21 supervision, as a condition of the supervision, a fee of \$50
22 for each month of supervision ordered by the court, unless
23 after determining the inability of the minor placed on
24 supervision to pay the fee, the court assesses a lesser amount.
25 The court may not impose the fee on a minor who is made a ward
26 of the State under this Act while the minor is in placement.

1 The fee shall be imposed only upon a minor who is actively
2 supervised by the probation and court services department. A
3 court may order the parent, guardian, or legal custodian of the
4 minor to pay some or all of the fee on the minor's behalf.

5 (11) If a minor is placed on supervision for a violation of
6 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
7 by Minors Act, the court may, in its discretion, and upon
8 recommendation by the State's Attorney, order that minor and
9 his or her parents or legal guardian to attend a smoker's
10 education or youth diversion program as defined in that Act if
11 that program is available in the jurisdiction where the
12 offender resides. Attendance at a smoker's education or youth
13 diversion program shall be time-credited against any community
14 service time imposed for any first violation of subsection
15 (a-7) of Section 1 of that Act. In addition to any other
16 penalty that the court may impose for a violation of subsection
17 (a-7) of Section 1 of that Act, the court, upon request by the
18 State's Attorney, may in its discretion require the offender to
19 remit a fee for his or her attendance at a smoker's education
20 or youth diversion program.

21 For purposes of this Section, "smoker's education program"
22 or "youth diversion program" includes, but is not limited to, a
23 seminar designed to educate a person on the physical and
24 psychological effects of smoking tobacco products and the
25 health consequences of smoking tobacco products that can be
26 conducted with a locality's youth diversion program.

1 In addition to any other penalty that the court may impose
2 under this subsection (11):

3 (a) If a minor violates subsection (a-7) of Section 1
4 of the Prevention of Tobacco Use by Minors Act, the court
5 may impose a sentence of 15 hours of community service or a
6 fine of \$25 for a first violation.

7 (b) A second violation by a minor of subsection (a-7)
8 of Section 1 of that Act that occurs within 12 months after
9 the first violation is punishable by a fine of \$50 and 25
10 hours of community service.

11 (c) A third or subsequent violation by a minor of
12 subsection (a-7) of Section 1 of that Act that occurs
13 within 12 months after the first violation is punishable by
14 a \$100 fine and 30 hours of community service.

15 (d) Any second or subsequent violation not within the
16 12-month time period after the first violation is
17 punishable as provided for a first violation.

18 (Source: P.A. 96-179, eff. 8-10-09; 96-1414, eff. 1-1-11;
19 97-1150, eff. 1-25-13.)